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Patrick Byrne

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

ROBERT HUNTER BIDEN, an
individual,

Plaintiff,

vs.

PATRICK M. BYRNE, an individual,

Defendant.

Case No.: 2:23-cv-09430-SVW-PD
Judge: Honorable Stephen V. Wilson
Courtroom: "10A"

Complaint Filed: November 8, 2023

**DEFENDANT'S OPPOSITION TO
PLAINTIFF'S MOTION IN LIMINE
NO. 1 TO EXCLUDE
REPUTATIONAL EVIDENCE;
MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT
THEREOF**

Date: July 21, 2025
Time: 3:00 p.m.
Courtroom: "10A"

1.

**DEFENDANT'S OPPOSITION TO PLAINTIFF'S MOTION IN LIMINE NO. 1 TO EXCLUDE REPUTATIONAL
EVIDENCE; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF**

TO ALL PARTIES AND THEIR ATTORNEY’S OF RECORD:

Defendant Patrick Byrne opposes Plaintiff’s Motion in Limine No. 1 on the grounds that the motion is untimely, does not dispose of Plaintiff’s claims for damages related to his alleged loss of business earnings, lost art and book sales, lost business opportunities, and his reputation in the Jewish community, and because Plaintiff failed to properly meet and confer prior to the filing of this motion. Plaintiff is claiming that he is not seeking “reputational harm or emotional distress damages,” but it is unclear from his motion whether he will still seek the damages outlined above.

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION AND RELEVANT BACKGROUND

Plaintiff’s motion here is untimely. Plaintiff should have known by the conclusion of fact discovery and when the trial documents were initially filed whether he planned to pursue actual damages. There is no reason why Plaintiff waited until just before the upcoming continued trial date to decide he did not wish to seek special damages related to his alleged reputational harm and alleged emotional distress.

Further, Plaintiff claims he is not seeking any “reputational harm or emotional distress” damages caused by the statements made by Defendant. However, Plaintiff’s motion does not make it clear he is not seeking damages for lost business earnings, lost business opportunities, lost art and book sales, and for alleged damages to his reputation in the Jewish community. To the extent Plaintiff will waive *all* special damages identified above, and any others he may have identified in discovery, then Plaintiff needs to modify the jury instructions, witness list, exhibit list, jury instructions, and verdict forms to remove these issues and damages. Should Plaintiff fail to do so, Defendant should have the right to present relevant evidence rebutting these claimed damages.

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1 Furthermore, Plaintiff's reputation is relevant to the question of liability.
2 Plaintiff is a polarizing public figure who has been surrounded by controversy
3 throughout his career. He is no stranger to accusations that he involved himself in
4 politics, or that he used his father's status as Vice President and then as President
5 to curry favor with foreign and domestic entities. Plaintiff's reputation within his
6 community is also relevant to the question of liability. While Plaintiff does not
7 need to present evidence of *damages*, he still needs to present evidence of *liability*,
8 and that will naturally implicate harm to his reputation.

9 More specifically, Defendant relied on information he obtained concerning
10 plaintiff's reputation and believed it as a basis in then believing the information he
11 obtained and published that is the subject of the defamation claim by plaintiff was
12 true. Even the plaintiff agrees that the information related to his reputation that was
13 published prior to Defendant's publication that is the subject of this action would
14 be admissible for that purpose.

15 Finally, Plaintiff failed to properly meet and confer before filing this motion.
16 Plaintiff sent an email to Defendant's counsel at 11:01 am on Monday, June 23,
17 2025. Plaintiff then went ahead and filed the motion the same day as his "meet and
18 confer" "attempt." Defendant had no chance to discuss the motion with Plaintiff.
19 The Local Rules require the "meet and confer" conference to occur at least 7 days
20 before the motion is filed, but Plaintiff barely afforded Defendant a few hours to
21 even see the email. Had Plaintiff attempted to "meet and confer" with Defense
22 counsel sooner, the Parties could have come up with a stipulation or another
23 arrangement to deal with the issues presented in Plaintiff's motion and in
24 Defendant's opposition.

25 **II. LEGAL ARGUMENT**

26 **A. Plaintiff's Motion is Untimely**

27 All pretrial documents needed to be filed prior to the Pretrial Conference
28 originally scheduled for November 25, 2024 pursuant to Local Rule 16, *et seq.*

1 Defendant filed his motions in limine on November 6, 2024, but as of the Final
2 Pretrial Order, jointly prepared by the parties and filed by Plaintiff on November
3 14, 2024, Plaintiff filed no motions in limine, and Plaintiff did not indicate he
4 intended to do so.

5 Plaintiff's motion involves evidence he wishes to exclude based on claims
6 he is no longer making. Plaintiff should have known what claims he planned to
7 pursue at trial at the time the trial was originally set and should have filed this
8 motion sooner, or at the very least Plaintiff should have met and conferred with
9 Defendant's counsel sooner. When the Court continued the Trial dates and the
10 Pretrial Conference dates, it did so while limiting the evidence Plaintiff could seek
11 from Defendant and other witnesses. The Court also allowed the parties to revise
12 the trial documents based on evidence they obtained pursuant to the Court's orders.
13 This did not, however, allow the parties to reopen all deadlines, and to file motions
14 and pretrial documents with evidence and information previously known to the
15 parties.

16 Based on the foregoing, it is respectfully requested that the Court deny
17 Plaintiff's motion.

18 Alternatively, it is requested that if the Court is inclined to grant Plaintiff's
19 motion, that the granting of the motion come with the conditions that Plaintiff
20 modify his proposed jury instructions, verdict forms, witness list, exhibit list and
21 by removing all references to *all* special damages, including those damages
22 outlined above and those claimed during discovery. Defendant further requests that
23 Plaintiff's claimed damages are limited within the jury instructions and verdict
24 forms to only nominal damages, the only damages Plaintiff is seeking according to
25 his motion.

26 **B. Plaintiff's Reputation is Still Relevant to the Question of Liability**

27 While Plaintiff is not seeking special damages, he is still seeking
28 compensation in the form of nominal damages and possible punitive for

1 Defendant's statements. Plaintiff seeks to improperly issue a blanket limitation on
2 the evidence Defendant can present in his defense. Plaintiff highlights the example
3 offered by the Court in its order denying Defendant's request to reopen Plaintiff's
4 deposition as if that is the only category of relevant reputational evidence.

5 For example, Plaintiff's reputation for truthfulness is relevant, since Plaintiff
6 has a reputation for lying that includes tax evasion, which led to his disbarment. A
7 witness's character for truthfulness – especially for someone like Plaintiff – is
8 always relevant, and always subject to attack, pursuant to Federal Rules of
9 Evidence, Rule 608. Plaintiff's reputation for truthfulness should not be limited to
10 his ability to tell the truth prior to the time the statements were made because a
11 person's ability to tell the truth is always relevant, especially when that person is
12 testifying under oath. Similarly, Plaintiff's well-documented history of drug use
13 and abuse is relevant so far as it impacts his testimony, and his ability to testify
14 truthfully.

15 Plaintiff also garnered a reputation for using his father's status as Vice
16 President and then as President of the United States to curry favors and monetary
17 gain from foreign and domestic entities. Plaintiff was investigated at length for
18 these behaviors. For example, the House Judiciary Committee and the Jouse
19 Oversight Committee investigated Plaintiff's connections to Patrick Ho and CEFC
20 China Energy after Plaintiff received millions of dollars from CEFC despite not
21 performing any identifiable work, and a million dollars from Mr. Ho, despite
22 performing no legal services for him. Similarly, prosecutors in his tax case sought
23 to introduce evidence that Plaintiff worked with a Romanian businessman who
24 sought to influence US policy. As a result of these, and many other investigations,
25 the public's opinion on Plaintiff has always been divided.

26 Furthermore, evidence of Plaintiff's reputation and alleged harm is relevant
27 to Defendant's affirmative defenses. All relevant evidence is admissible. (Fed.
28 Rule of Evid., Rule 402.) Even if Plaintiff does not put on evidence of reputational

1 harm during his case-in-chief, Defendant will put on any evidence, including
2 evidence of Plaintiff's reputation, that is relevant to Defendant's affirmative
3 defenses and defenses which is that Plaintiff's prepublication reputation was relied
4 upon by Defendant in making the decision to publish and formulate his opinion
5 that what he was publishing that is the subject of the action was true and he had no
6 reason to believe it was false.

7 **C. Plaintiff Failed to Appropriately Meet and Confer**

8 Local Rule 7-3 requires the parties to meet and confer before filing motions.
9 Plaintiff sent an email to opposing counsel to "meet and confer" at 11:01 am on
10 Monday, June 23, 2025. Plaintiff then filed the motion only a few hours later,
11 leaving insufficient time for Defendant's counsel to even respond to Plaintiff's
12 email, or to discuss Plaintiff's motion further. Plaintiff's motion violates Local
13 Rule 7-3 because the Rule requires the party to meet and confer at least *7 days*
14 before filing the motion in question. Here, Plaintiff filed the motion *the same day*
15 as his counsel's "meet and confer" email. Moreover, Plaintiff's declaration fails to
16 outline the date of the meet and confer conference between the parties, and their
17 respective positions. Plaintiff's motion and declaration do state that Defendant did
18 not advise whether he would oppose, but that is because Plaintiff did not give
19 Defendant's counsel a chance to respond before Plaintiff's counsel filed the
20 motion.

21 **III. CONCLUSION**

22 Based on the foregoing, Defendant respectfully requests that this Court deny
23 Plaintiff's motion. Alternatively, it is respectfully requested that the Court order
24 Plaintiff to remove all references to all special damages from the jury instructions
25 and special verdict forms and only include nominal damages, as requested in
26 Plaintiff's motion. Plaintiff should also be required to correct his witness list,
27 exhibit list to eliminate evidence related to the reputation and damages claims of
28 plaintiff that currently exist.

1 Defendant further requests that the Court deny Plaintiff's motion as to the
2 admissibility of Plaintiff's reputation evidence, pre publication which is relevant to
3 the issue of actual defendant's malice.

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5 Dated: July 2, 2025 LAW OFFICES OF MICHAEL C. MURPHY

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7 By: /s/ Michael C. Murphy, Esq.
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10 Michael C. Murphy, Esq.
11 Michael C. Murphy, Jr., Esq.
12 Attorneys for Defendant, Patrick
13 Byrne
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